

**CITY COUNCIL MEETING**  
**January 8, 2004, 8:30 a.m.**

**CITY COUNCIL OF THE CITY OF ABILENE, TEXAS**  
**CONFERENCE ROOM 2, ABILENE CIVIC CENTER**

The City Council of the City of Abilene, Texas, met in Regular Session on January 8, 2004, at 8:30 a.m. in Conference Room 2 of the Civic Center, 1100 North 6<sup>th</sup> Street. Mayor Grady Barr was present and presiding with Councilmen Anthony Williams, Kris Southward, John Hill, Jimmy McNeil, Norm Archibald and Councilwoman Kay Alexander. Also present were City Manager Larry Gilley, City Attorney Sharon Hicks, City Secretary Jo Moore, Assistant City Secretary Renee Scott, and various members of the City staff.

Councilman Williams gave the invocation.

Kindergarten students from Dyess Elementary School, Braxten Piland and Tristan Hardwick led the Pledge of Allegiance. Also present were Braxten's mother Cristi Piland, who is a teacher at Dyess Elementary, and grandmother city secretary Jo Moore, Tristan's mother Kerry Hardwick who is also employed at Dyess Elementary School and the assistant principal for Dyess Elementary Ms. Starnes.

Mayor Barr, assisted by City Secretary Jo Moore, presented Employee Service Awards to the following individuals for their years of service:

35 Years	Ray Jennings	Inspection Services Manager Public Works
30 Years	Tony Neitzler	Assistant Director of Community Services Community Services
25 Years	Tony Jenkins	Police Officer Police
25 Years	Bernerd Kastner	Police Officer Police
25 Years	Joe Noret	Lieutenant II Police
25 Years	Larry Tatum	Police Officer Police
25 Years	Bernabe Mendoza	Equipment Operator II Solid Waste
25 Years	Joseph McCurley	Custodian I Water Distribution
25 Years	Deydra Williams	Municipal Court Administrator Municipal Court
20 Years	Lee Fuqua	Public Safety Dispatcher II Police Communications
20 Years	Cathy Tipler	Accounting Technician III Accounting

## **PROCLAMATIONS**

Mayor Barr read a proclamation recognizing January as “Texas Roundup Health Program Month” and invited those present to participate in the Mayor’s Round-Up 5K Run/Walk on Saturday, January 31.

Mayor Barr also presented proclamations recognizing January as “National Mentoring Month” and as “Crime Stoppers Month”.

## **DISPOSITION OF MINUTES**

2.0 There being no corrections, additions, or deletions to the December 4, 2003 and with one noted addition and no corrections or deletions to the December 18, 2003 Regular City Council Minutes, Councilman Williams made a motion to approve the minutes as printed. Councilman Southward seconded the motion, and the motion carried.

AYES: Councilmen Archibald, Williams, Hill, Southward, McNeil, Councilwoman Alexander, and Mayor Barr.

NAYS: None

## **CONSENT AGENDA**

3.0 Councilman Hill made a motion to approve consent agenda items 3.1, 3.2, 3.3 and first reading of 3.4 as recommended by staff. Councilman McNeil seconded the motion, and the motion carried.

AYES: Councilmen Archibald, Williams, Southward, Hill, McNeil, and Councilwoman Alexander, and Mayor Barr.

NAYS: None

### **Resolutions:**

3.1 Oral Resolution approving an emergency procurement to seal and waterproof the FAA Airport Traffic Control Tower facility and authorizing the City Manager to execute the contract.

### **Ordinances:**

3.2 **Z-00104** - Rezone from AO (Agriculture Open Space) to RM-2 (Residential Multi-Family) zoning district, property located at 2828 Old Anson Rd., and set a public hearing for January 22, 2004.

AN ORDINANCE AMENDING CHAPTER 23, “PLANNING AND COMMUNITY DEVELOPMENT”, SUBPART E, “ZONING”, OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN

PROPERTIES, AS DESCRIBED BELOW, DECLARING A PENALTY, AND CALLING A PUBLIC HEARING.

**Bid Awards:**

- 3.3 **Bid #CB-4012** – Annual Street Maintenance Materials. The bid was awarded, as recommended by staff, as follows:
- Morris Ready Mix, Abilene, TX: Portland Cement 7-Sack and Portland Cement 5-Sack.
  - R.E. Janes Gravel Company, Abilene, TX: Coarse Fill Sand and Remix.
  - Vulcan Materials Company, Abilene, TX: Limestone Rock Asphalt, Type CC, Limestone Rock Asphalt, Type A, Hot Mix, Type D, Crushed Limestone Aggregate–Delivered, Crushed Limestone Aggregate–Non Delivered, Coverstone PB-4, and Crushed Limestone #5.
  - APAC – Texas Inc., Dallas, TX: HPPM (High Performance Patching Material).
  - Deery American Corp., Grand Junction, Colorado: CMC-200.
  - Abilene Lumber/BMC West, Abilene, TX: Portland Cement Type I.
  - Bridges Asphalt, Inc., Garland, TX: AC-10, MC-30, and SS1 Emulsion.
- 3.4 **Bid #CB-4010** – Vehicles for Various Divisions. Item 1 was awarded to Arrow Ford, Abilene, TX. Items 2 through 6 were awarded to Lawrence Hall Chevrolet, Abilene, TX, all as recommended by staff and representing the low responsive bidders in the amount of \$475,819.55.

Prior to the Regular Agenda Mayor Barr stated appreciation to those present both for the public hearing on the Comprehensive Plan and for the first reading of the proposed amendment to the Smoking Ordinance. Mayor Barr noted the public hearing on the proposed Smoking Ordinance will be held January 22 and then requested those present both in favor and opposition of the Smoking Ordinance item to be recognized by raising their hand. There were 8 indicating opposition and 15 indicating in favor.

**REGULAR AGENDA**

**Ordinances:**

- 4.1 Richard Gertson, Director of Planning and Development Services, gave a brief history on the origin of the proposed Comprehensive Plan and then introduced the chair of the Planning & Zoning Commission, Jack Harkins.

Following introductory remarks about the plan Mr. Harkins briefed the Council on the background of the Comprehensive Plan process and the concepts and strategies resulting from that process. Mr. Harkins stated the Plan is the beginning in establishing goals, objectives and strategies with implementation of these being through the adoption of specific ordinances that support the goals of the Plan. Mr. Harkins further stated those specific ordinances would be heard by the Planning and Zoning Commission, the City Council and in public hearings prior to their being adopted. Mr. Harkins addressed the recognized need to balance the desired aesthetics for Abilene with the economic impact that would be placed on the development community. Mr. Harkins noted the Planning and Zoning Commission unanimously recommended approval of the proposed Plan before Council today.

Mayor Barr opened a public hearing on the item and stated to allow ample time for Council to hear all comments each speaker would have five minutes to address Council plus an additional thirty seconds to conclude their remarks. The following individuals addressed the Council:

- Bruce Bixby, 4349 Oldham Lane, stated the current proposed plan allows for additional development fees (impact fees) and discourages development. Mr. Bixby requested fees be taken out of the plan (15 individuals stood in support of Mr. Bixby's request).
- Bill Brabbin, 2809 Benbrook, stated the proposed plan will force builders to build outside of Abilene and that additional cost is passed on to the homebuyer.
- Ellen Richards, 2038 S. Clack #522, stated the proposed plan is a good one and complimented city staff and P&Z Commission for their work on the plan.
- Jimmy McDonald, 39 Hoylake, President of the Abilene Home Builders Association, stated people, and not the homebuilders, decide where they want to build and that builders do not have an objective to dump the homes they build as quickly as possible. Mr. McDonald recommended incentives be implemented to promote infill development and that that cannot be done by penalizing outside development.
- Dave Hogan, Abilene homeowner, spoke in support of the Comprehensive Plan and noted the landscape portion of the plan could be more strongly addressed.
- Petty Hunter, 725 Mesquite, Executive Director of Neighborhoods in Progress, spoke in support of the Plan based on the goals of infill development being one that NIP is focused on as they work toward renewal of neighborhoods throughout Abilene.
- Michael Burke, 119 Riverside Park, general manager of Ambassador Suites Hotel, spoke in support of the Plan, noting that infill is important from a tourism aspect.
- Joe Spano, 2709 Arrowhead, stated that although he came today as a neutral party he does feel a compromise could be obtained between the builders and the city (concerning the impact fees).
- Burl Harris, 1464 Tanglewood, stated developers are not against development inside the city and explained why developers build outside the city limits.
- Lindsey Minter, 1411 Tanglewood, stated that in considering the plan the most important element, due to the neighborhood schools in Abilene and the impact to school children, is that the Abilene Independent School District, their policies, administration and the AISD Board all be in agreement with the plan.

- Debbie McClure, 7317 Rainey Ave., manager of Abilene Book Store, stated she is strongly in favor of the proposed plan.
- Pat Garren, resident of Buffalo Gap, member of the Landmarks Commission, stated she is in favor of the rejuvenation and renovation of Abilene.
- Kay Merck, 6410 Twin Oaks Dr., Owner of Minuteman Press and member of Downtown Association, stated the plan is a very good one and to improve downtown is good for Abilene even if some take offense to that progress.
- Jack Merck, 6410 Twin Oaks Dr., Owner of Minuteman Press, stated he is in favor of the plan and that infill improvements are badly needed in Abilene.
- David Pemberton, resident of University Park in Dallas, TX, stated he is not knowledgeable about the plan but he did recently purchase the River Oaks Village shopping center on S. 14<sup>th</sup> where the new United Supermarket is located and he thinks a plan is needed to preserve the community.
- Perry Stockard, developer and homebuilder in Abilene, stated he is in favor of the plan except for the impact fees and asked Council to help developers to be able to stay inside Abilene.
- Tim McClarty, 27 Pinehurst, architect and Planning & Zoning Commission Member, addressed the P&Z's work on the plan, positive terminology changes to the plan and additional impact fee concerns.
- Wayne Samford, stated support of Bruce Bixby and the construction industry and noted he doesn't oppose the plan but would like to see some changes to it and does not want to be penalized for developing outside of the city.
- Bob Hammond, P.O. Box 70623, Abilene, TX, Executive Director of Abilene Association of Independent Business Owners, stated the plan is solid but needs fine tuning and some of the words need to be changed for a more positive impact. Mr. Hammond recommended changes to three strategies addressed in the plan.
- Ovelia Campos, 1834 University Blvd, personnel specialist for AISD. Ms. Campos stated she served on the Steering Committee for the Comprehensive Plan and currently serves on the Planning & Zoning Commission. Ms. Campos stated the city has not had a plan in 30 years and reiterated the fact that the plan is just a beginning and should be reviewed every year. Ms. Campos recommended Council approve the plan and then the separate elements of the plan can be discussed and decided upon.

- Eddie Boykin, 279 N. Willis St., P&Z Commission member, stated the P&Z did not draw up a plan to put the developers out of business but to encourage orderly development. Mr. Boykin further stated the purpose was to encourage infill development while not discouraging other development and the wording of the plan was changed where the word “discourage” appeared it was modified to reflect encouragement.
- Pat Garren, realtor, addressed an area in the city where water service is not adequate, and noted the purchaser of that land will have to pay to have a new water line installed.
- John Harris, 541 Country Place South, Abilene realtor, stated concerns that were discussed in a recent realtors meeting about the impact the extra expense will have on first time homeowners /small residences.

There being no one else present and desiring to be heard, the public hearing was closed.

Council comments included: 1) questions concerning areas of the city where providing city services would be cost prohibitive; 2) the importance of infill and re-development and the need to offer incentives; 3) the limitation of some structures being built in the central city due to lack of land and being cost prohibitive; 4) opposition to imposing additional fees on those building outside the loop, and clearly defining that in the plan; and 5) encouraging growth everywhere but actively promoting growth within the central city.

Councilman Hill made a motion to approve the first reading of the Ordinance adopting the Comprehensive Plan. Councilwoman Alexander seconded the motion, and the motion carried.

AYES: Councilmen Williams, Hill, McNeil, Southward, Archibald, Councilwoman Alexander, and Mayor Barr.

NAYS: None

AN ORDINANCE ADOPTING A COMPREHENSIVE PLAN FOR THE CITY OF ABILENE.

To clarify the purpose of the Comprehensive Plan Mayor Barr read a proposed introduction to the Plan that he stated will be submitted for Council’s approval at the second reading of the Ordinance to be held at the January 22, 2004 Council meeting.

4.2 Sharon Hicks, City Attorney briefed the Council on the first reading of an amendment to the Smoking Ordinance. Ms. Hicks noted the proposed ordinance modifies smoking prohibitions in public places and places of employment and prohibits smoking in any business or place open to the public with the following exceptions: 1) private places such as: personal automobiles, private clubs, or private residences, except when used as a child-care, adult day care or health care facility; 2) up to twenty-five percent (25%) of hotel and motel rooms; 3) retail tobacco stores that are completely enclosed and have sole public ingress and egress to the outside, not opening into

any other establishment; 4) a stand alone bar or nightclub, that does not open into another facility and does not allow minors, any function allowing entry of minors must be smoke free; 5) outdoor places of employment except if accessible by the public, or adjacent to a playground or play area for children. Ms. Hicks further noted the proposed ordinance will prohibit smoking in public places and places of employment, including the following, (not an exhaustive list): 1) food establishments/restaurants including the bar and TV area; 2) businesses; 3) educational facilities; 4) retail stores; 5) bars and nightclubs that are not stand alone, (i.e. have entrances to other facilities, such as into a hotel); 6) bingo halls, casinos, bowling alleys, and billiard halls; 7) meeting rooms; 8) restrooms, elevators, lobbies, reception areas, hallways and any other common-use areas; 9) common areas of multi family facilities; and 10) public entrances of facilities. The ordinance provides for a progressive fine system if violations occur. It was also noted the ordinance differs from the current one by completely banning smoking in restaurants, bars and clubs that are not stand alone, billiard halls, bowling alleys, bingo halls and meeting rooms and requires that public entrance ways be designated smoke free zones. Staff recommends approval of the proposed ordinance.

Council and staff discussion included: 1) the smoking ordinance approved by the city of Austin, an election being held that resulted in modifications to that ordinance and Austin's current policies allowing smoking; 2) adding to the proposed ordinance the "International No Smoking Symbol" as an acceptable sign; 3) if approved the effective date of the ordinance would be March 1, 2004; 4) clearly defining the word "incidental" in the proposed ordinance; 5) addressing non-profit as well as for-profit organizations; 6) if "private places" (country clubs) would reap unfair advantages and what else can be construed as "private places"; 7) areas defined as "smoke free zone" and possible modifications to the ordinance if needed; 8) including in the ordinance language to address notice of entering a smoking area; 9) closer review of private clubs, if enforceable (due to college students and children being exposed to second hand smoke); and 10) clarification of educational facilities.

Councilman McNeil made a motion to approve the first reading of the amendment to the Smoking Ordinance. Councilman Williams seconded the motion, and the motion carried.

AYES: Councilmen Williams, Hill, McNeil, Southward, Archibald, Councilwoman Alexander, and Mayor Barr.

NAYS: None

AN ORDINANCE OF THE CITY OF ABILENE AMENDING THE MUNICIPAL CODE OF THE CITY OF ABILENE BY DELETING CHAPTER 10 FIRE PROTECTION AND PREVENTION, ARTICLE III: FIRE PREVENTION CODE, DIVISION 2: SMOKING, AND ADOPTING CHAPTER 13 HEALTH AND SANITATION, ARTICLE VI: SMOKING; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING

Mayor Barr stated the second reading and a public hearing on the amendment to the Smoking Ordinance will be held at the Council's January 22, 2004 meeting.

**EXECUTIVE SESSION**

Mayor Barr recessed the Council into Executive Session pursuant to Sections 551.071, 551.074, and 551.072 of the Open Meetings Act, to seek the advice of the City Attorney with respect to pending and contemplated litigation, to consider the appointment and evaluation of public officers, and to consider the purchase, exchange, lease or value of real property.

The Council reconvened from Executive Session and reported no action taken. There being no further business, the meeting was adjourned at 12:05 p.m.

---

Jo Moore  
City Secretary

---

Grady Barr  
Mayor



